

How Twenty-One and Twenty-Nine Have Been Made Halves of Fifty in Iowa

William H. Fleming

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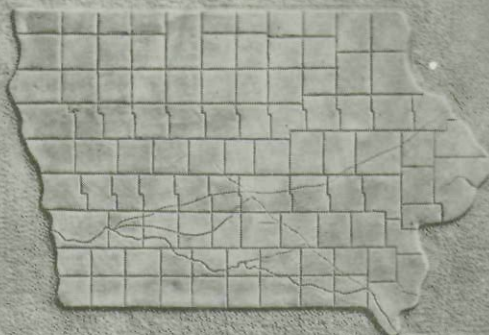
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THE MORMON TRAIL



DETERMINED AND AUTHENTICATED
BY THE HISTORICAL DEPARTMENT
OF IOWA, 1911.

THIS MONUMENT WAS ERECTED IN 1917
BY THE IOWA DAUGHTERS OF THE
AMERICAN REVOLUTION IN MEMORY OF
THE PIONEERS WHO FOLLOWED THIS
TRAIL AND ITS TRIBUTARIES.

WE CROSS THE PRAIRIE AS OF OLD
THE PILGRIMS CROSSED THE SEA,
TO MAKE THE WEST AS THEY THE EAST
THE HOMESTEAD OF THE FREE.

WHITTIER

AT THIS PLACE WAS BRATTAIN'S GROVE
JUNCTION OF THE DRAGON AND
MORMON TRAILS.



Typical Tablet Affixed to a Glacial Granite Fragment Erected in Van Buren County, Iowa
(See article beginning on page 32)

ANNALS OF IOWA

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3D SERIES

HOW TWENTY-ONE AND TWENTY-NINE HAVE BEEN MADE HALVES OF FIFTY IN IOWA

BY WILLIAM H. FLEMING

Our state constitution, as is generally known, contemplates that the state Senate so classifies its membership that half thereof shall be chosen every second year, the full term of a senator being four years. It is the purpose of this paper to recount the process by which our state senators have been so classified that the half of the whole number of fifty that were chosen last year includes twenty-nine, leaving twenty-one for the next election.

The state's first constitution contained this provision: "At the first general assembly after this constitution takes effect, the senators shall be divided by lot, as equally as may be, into two classes: the seats of the senators of the first class shall be vacated at the end of the second year, so that one-half shall be chosen every two years."

The constitution also made an apportionment of the senators and representatives among the then thirty-three counties, to hold good until the first enumeration of the inhabitants of the state. That apportionment fixed the number of senators at nineteen, and was as follows:

"The county of Lee shall be entitled to two senators and five representatives;

"The county of Van Buren, two senators and four representatives;

"The counties of Davis and Appanoose, one senator and one representative, jointly;

"The counties of Wapello and Monroe, one senator jointly, and one representative each;

"The counties of Marion, Polk, Dallas and Jasper, one senator and two representatives jointly;

"The county of Des Moines, two senators and four representatives;

1 Nov 1946 - Hertz Bund. 255-

"The county of Henry, one senator and three representatives;

"The county of Jefferson, one senator and three representatives;

"The counties of Louisa and Washington, one senator jointly, and one representative each;

"The counties of Keokuk and Mahaska, one senator jointly, and one representative each;

"The counties of Muscatine, Johnson, and Iowa, one senator and one representative jointly, and Muscatine one representative, and Johnson and Iowa one representative jointly;

"The counties of Scott and Clinton, one senator jointly, and one representative each;

"The counties of Cedar, Linn, and Benton, one senator jointly; the county of Cedar one representative, and the counties of Linn and Benton one representative jointly;

"The counties of Jackson and Jones, one senator and two representatives;

"The counties of Dubuque, Delaware, Clayton, Fayette, Buchanan, and Blackhawk, two senators and two representatives jointly."

The First General Assembly was convened under the proclamation of Governor James Clarke on November 30, 1846, the constitution having provided that such first session should begin on a day to be fixed by the territorial governor within four months after the people should ratify the constitution. The popular vote, taken on August 3, 1846, made it impracticable to await the first Monday of December, the date set for the regular convening of the legislature.

On Thursday, December 3, Governor Ansel Briggs was inaugurated. On the succeeding day, Dr. John J. Selman, senator from the county of Davis, offered two resolutions that were adopted as follows:

"Resolved, That the Senate now proceed to the classification of the senators in the manner prescribed by the constitution;

"Resolved, Further, that there be nine tickets prepared, with the number "four" thereon, and that there be ten tickets prepared, with the number "two" written thereon; and that a num-

ber two ticket and a number four ticket be placed in a hat or box with any number of blank tickets; that the members from the county of Lee shall draw alternately until one or the other shall draw a ticket with a number thereon, which shall determine his term of office, and the other numbered ticket remaining in the hat or box shall determine the term of office of the other;

"The members from the county of Van Buren shall determine their respective terms of office in the same manner;

"The members from the county of Des Moines in the same manner;

"The members from the county of Dubuque and others in the same manner;

"The members from the counties of Henry and Jefferson in the same manner;

"The members from the counties of Davis and Appanoose, and of Wapello and Monroe, in the same manner;

"The members from the counties of Mahaska and Keokuk, and Marion, Polk, Dallas and Jasper, in the same manner;

"The members from the counties of Louisia and Washington, and Muscatine and Johnson, in the same manner;

"The members from the counties of Scott and Clinton, and Cedar, Linn and Benton, in the same manner;

"And the member from the counties of Jackson and Jones shall draw from a hat or box containing a number two and a number four ticket, and his term of office shall be determined by the number which he shall then draw."

From the account of the drawings, based on the narrative in the journal of the Senate, as herein given, will be seen some quite curious happenings. First, Senator Huner, of Lee County, drew a number two ticket, leaving the four-year term to his colleague, Sprott. These were both Whigs. Then Senator John F. Sanford, of Farmington, Van Buren County, a Whig, drew a four card, leaving the two-year term to his Democratic colleague, John M. Whitaker of Winchester. Senator Milton D. Browning, of Burlington, drew a four-year term, leaving to his colleague, Samuel G. Fullinwider, also of Burlington, the other term. These were both Whigs. Theophilus Crawford, Democrat, of Tivoli, Dubuque

County, drew the four card, leaving the other to his Democratic colleague, Thomas H. Benton, Jr., of Dubuque. Then came the senators that represented separate districts but were coupled together in the drawing. Here, Ivan Jay, of Mount Pleasant, drew a four card. He was a Whig. The two-year term then went to Robert Brown, Democrat, of Jefferson County. Senator John J. Selman, of Bloomfield, drew a two card, leaving the four-year term to James Davis, of Ottumwa. Both these were Democrats. Randolph R. Harbour, of Oskaloosa, drew four years, leaving to Thomas Baker, of Fort Des Moines, the other term. Both were Democrats. Francis Springer, of Columbus City, Whig, drew for four years, leaving to Thomas Hughes, of Iowa City, the two-year term. Hughes was a Democrat. Loring Wheeler, of DeWitt, Whig, drew a four card, leaving to Samuel A. Bissel, of Cedar County, Democrat, the remaining card. Then Senator Philip B. Bradley of Andrew, drew for himself a four-year term. Thus, ten of the senators got the four-year term, leaving nine who would be required to vacate their seats in two years. But notice the party alignment of the senators. The only Democratic senators that drew a four-year term were those who were coupled with other Democrats, and the two Whigs that were compelled to accept two-year terms were only those who were coupled with other Whigs. Where senators of opposite politics were coupled together, the Whigs invariably won. Hence, six of the eight Whig members were among the ten senators that drew four years, the other four years going to two of the eleven Democrats.

The peculiar partisanship of this drawing naturally attracted comment and queries were ventured as to how it so happened. There was one solution offered that had much currency at the time. It was to the effect that at that time, blotting paper had not been introduced. Prior thereto it was the custom to sprinkle black sand over ink-written papers, which were jarred in order to throw off the ink-loaded sand. The use made of this device, at that time, it was said, was that, while ink-written papers were, as usual, sprinkled with the sand, the cards bearing the word "four" were not jarred like the other papers. Of this device the Whigs were apprised, so that, when their turn came to draw, they

felt for and drew the unjarred sanded "four" card. A young lawyer of a neighboring county to that of Johnson, afterward an eminent member of the bar and district judge, it was alleged, was he who thus "doctored" the cards. Forty years afterward, that person told the writer hereof that he had nothing to do with that transaction and he much doubted whether there was any truth in the legend. The fact that the Senate was officered throughout by Democrats makes it the more improbable that there was any such manipulation of the cards to the prejudice of that party.

That General Assembly had before it the work of electing two United States senators, and the chief justice and associates of the Supreme Court, and it met once for that election. When one ballot showed that neither party had the majority, although the Whigs lacked only one vote of winning, the Democrats were indisposed to go further with the balloting, lest the one senator, Fullinwider, of Burlington, could be induced to act with his Whig associates, whose choice was one Jonathan McCarty, he voting for Gilbert C. R. Mitchell, of Davenport. Several motions to adjourn the joint convention were voted down until one made finally to adjourn until January 5, 1847, was carried. But when that date was reached, the Senate came not to the joint convention.

The following winter, a special session of the legislature was called. Some changes favorable to the Democrats had occurred in the membership. But then it was the House of Representatives that failed to go to the joint convention. Two Whigs in that body had given place to Democrats because the Senate refused to oust either the members of its body who had been appointed to office or the one who had removed from the district that had elected him, though the House had vacated the seat of one member who had removed from the district that had elected him. The House tabled all motions for going into joint convention.

When the Second General Assembly met, in December, 1848, the Senate was divided politically like that of the first. The six Whigs that had drawn the longer term were in attendance, reinforced by George G. Wright, of Keosauqua, and John P. Cook,

of Tipton, respectively, succeeding Messrs. Whitaker and Bissell, Democrats. On the other hand, Senators Huner and Fullinwider, Whigs, gave way to Thomas S. Espy, of Fort Madison, and Alfred S. Fear, of Burlington, Democrats. The changes in the other house, in the Taylor-Cass campaign of 1848, gave the Democratic party about two-thirds of the entire membership. The body readily elected Augustus C. Dodge and George W. Jones to the United States Senate. Once only, afterwards, were two senators elected by the same General Assembly, which was when Senators Allison and Dolliver were so chosen more than half a century later. On this later occasion, one of the legislators who had taken part in that earlier election, Hon. Phineas M. Casady, was present on invitation, and briefly addressed the convention.

In 1851, the Third General Assembly was called upon by reason of the white population of the state being shown by the federal census of 1850, to be in excess of 175,000, to-wit: 191,881, to provide for the election of a house of representatives of not less than thirty-nine members, nor in excess of seventy-two, and a senate having a membership of not less than one-third nor more than one-half the number of representatives. Accordingly that General Assembly passed an enactment that called for a house of sixty-three representatives and a senate of thirty-one, the latter to be chosen by twenty-four senatorial districts, the ratio thus being 6,190 for each senator. Lee County, having three times that ratio, got a third senator, which was also true of the district of Dubuque and the neighboring northeastern counties. Van Buren having almost two such ratios, kept her second senator, and Jefferson, having slightly more than such ratio and half over, got a second senator. The number of senators having been increased by twelve, it became necessary for the Senate to allot to six of the twelve new senators two-year terms. As might be expected there was no little preplexity as to which of the new senators were to be considered as representing new constituencies. Districts to which additional senators were given would each supply one such short term senator, but which of these would it be when more than one had been chosen at the election of members? Again, members coming from counties in which lived senators in the pre-

ceding General Assembly would ordinarily be considered successors to the latter, howsoever much the districts effected might be reshaped. The committee on elections reported a bill that would, if possible, have coupled a Democrat and a Whig in the drawing. A special committee reported a bill that would have bunched the Whigs together, so that they would get a full share of the shorter terms, but the former report somewhat modified, was adopted. The Whigs here again were more or less winners, three of them getting four-year terms, leaving the other four year terms to eight Democrats.

Among the Democrats that drew short terms was Dr. Andrew Y. Hull, of Lafayette, in the county of Polk, who almost succeeded in getting a bill through the Senate removing the capital of the state to the "Forks of the Raccoon." Dr. Hull's son, after service in the army of the Union, was secretary of the Senate, secretary of state, lieutenant-governor and then representative in Congress from the Des Moines district for twenty years, as long an uninterrupted service, with one exception, as any among Iowa congressmen.¹

The Fifth General Assembly, meeting in 1854-5, reapportioning, increased the number of senatorial districts from twenty-four to thirty-four and of senators from thirty-one to thirty-six, the census of 1854 affording a ratio for the latter of 8,999. Lee and Van Buren each lost a senator, but they were both put together in what was known as a "floating district" with one senator from that district. Jefferson also lost a senator while the three from Dubuque and other northeast counties gave place to one from Dubuque, one from Clayton, and one from Dubuque and Delaware, another "floating district," one of the last made in Iowa. We shall see presently how that constitutional restriction has been gotten round. Other counties in that large district, some of them hardly organized, were scattered through three other districts. There were therefore twenty senators elected in 1856,

¹ David B. Henderson of the Third District served without interruption equally long with Captain Hull, twenty years. Gilbert N. Haugen of the Fourth District has exceeded all records in Iowa for continuous service in the lower branch of Congress, having served twenty-two years, and has been re-elected for two years more, and has commenced to serve that term.—Editor.

leaving sixteen of the class that had been from the first the larger. The constitution required that there should be an allotment of the new senatorial representatives into the respective classes. Hence, two of the additional members should, under that constitutional requirement, have been allotted to serve for two years. But there appears to have been no action taken or contemplated towards such an allotment. Perhaps the fact that the third constitutional convention was about to meet upon the adjournment of that session, made the senators doubtful as to the terms of any of them. In that convention there was something of a movement looking to the election of an entirely new senate but nothing was adopted by that body looking toward shortening the terms of any of the legislators, except as one year was taken from the term of each through changing the year of election from the even numbered to that of the odd numbered year. Another consideration was not without its weight. Fully two-thirds of the senators would remain members after the first general election under the new constitution and would then be in office when a senator of the United States should be chosen in the room of George W. Jones. This consideration could not have been without its influence on the dominant party in that convention, a party that had not then secured what seemed to be a lasting hold on power in the Senate. This precaution was seen, a few weeks later, to be fully justified when the Democrats elected two out of three state officers; a happening nothing like whereof appeared again in thirty years.

The Seventh General Assembly, meeting in 1858, at the new capital, passed an apportionment bill that increased the number of districts to forty-one and of senators to forty-three, for which the census of 1856 afforded a ratio of 12,037, although the act making the apportionment enacted a "ratio of seventeen thousand inhabitants, or fraction thereof exceeding one-half." Under this apportionment Des Moines lost its second senator, which it had had from the first days of the state. Dubuque got a second senator from the "floating district" of Dubuque and Delaware. Linn county got a senator to itself in lieu

of one from itself and a "floating district" of Linn and three other counties.

When the Eighth General Assembly met, there were therefore twenty-seven senators that had just been elected, and there were sixteen that would be superceded at the next election of legislators. The constitutional requirement that additional senators should be allotted to the two classes of senators being the same as in the first constitution, six of the additional senators including those added by the apportionment act of 1855, should have been allotted to terms that would expire at the next general election. Neither the Senate of the Sixth General Assembly, as we have seen, nor that of the Eighth, appears to have allotted short terms to any of the members of that body. Let us see how the last named General Assembly got around the constitutional requirement. Toward the close of the session the Senate of the Eighth sent down to the House of Representatives a bill that was introduced by Senator John W. Thompson of Scott County, entitled "A Bill to Provide for the Allotment of Terms of Senators." This bill was introduced March 27, 1860, and on motion of Senator James F. Wilson read a third time under suspension of the rule and passed by 26 to 5, the minority being all Democrats. The House passed the bill 66 to 5—all Democrats here also. On April 2 the bill was signed by the governor of the state. This act, quite unique in Iowa legislation, and perhaps in legislation generally, is here reproduced in full.

"Section 1. Whenever under the provisions of the constitution, it becomes the duty of the Senate to determine by lot the members elect, who shall hold respectively for the terms of two years and of four years, the same shall be determined at the first session, by depositing in a box to be provided by the secretary, a number of folded ballots equal to the whole number of new members elected; the proper proportion of each number, so as to equalize the classes as nearly as possible, shall bear the writing 'For Two Years,' and the remainder for 'Four Years,' which ballot box shall be prepared and deposited by the secretary of the Senate, and then the roll of such new members shall be called, and as each member's name is called he shall draw one of such

ballots from the box and hand the same to the secretary who shall announce the term so drawn; and if any such member shall refuse to draw his ballot, or is absent when his name is called, or being present shall refuse to draw, the president shall in like manner draw and announce the term so drawn; and the term so drawn shall be the term of office for which said senator shall be taken and held to have been elected, and shall be accordingly entered on the journal of the Senate.

"Sec. 2. The members of the Senate elected at the October election in the year one thousand eight hundred and fifty-nine, except those elected to fill vacancies, shall hold their said office for the term of four years, but their successors, if it shall then be necessary to equalize the classes of members, holding for the respective terms aforesaid, shall determine the terms for which each shall hold his said office by lot, as provided in the preceding section."

That second section seems to have been something of an after-thought. Without it, what was to prevent the twenty-seven newly elected senators from proceeding to classify themselves, for at least six of them must have drawn the two-year terms. This section seems to have been thought necessary to secure to at least six members another term of two years. Of the twenty-six senators who voted for the bill twenty were of those confirmed by the Senate as holding for four years; while of the negative senators four were similarly situated. No action of any kind was taken until near the end of the session as stated above. Hence, it is not improbable that the senators had gotten to like each other so well that none felt like cutting short the official careers of any of the others.

The Eighth General Assembly apportioned the state into forty-three districts, for the election of forty-six senators for which the state census of 1859 was used as a basis ratio of 13,948 white persons. Under that apportionment Scott County got two senators, Jasper was made a district by itself, while a new district was made of Dallas, Adair, Cass, Audubon and Shelby. Hence, when the Ninth General Assembly met, there were nineteen in the smaller class, with the other class of twenty-seven undimin-

ished. The act of 1860 left nothing for this General Assembly to do in respect of the classification of the terms of senators, because under that act there would be no redundancy of senators to be classified until 1864.

The Ninth General Assembly reapportioned the state into the same number of districts without increasing the number of senators, the federal census of 1860 affording a basis of 14,647 for each senator. The county of Monroe was made a new district separating it from Lucas, with which it had been previously grouped. Lucas was now put into another district, along with Wayne and Clarke, which, under a ruling of the Senate of 1866, was made a new district, thus making twenty-eight senators in the larger class. On the other hand, two or three districts were practically abolished, the counties composing them being united with those in other districts, thus making the number of senators claiming seats in classes numbering, respectively, twenty-seven and nineteen.

To the senators in the Tenth General Assembly, those of the Eighth had thoughtfully turned over the matter of classification of the terms of the members; but the legislators of 1864 seem to have felt more like considering matters connected with the then pending war and they left the job to such of their successors as might be bold enough to attack the same, which such successors, it is just to state, have not thought it their business to undertake to do what their long time ago predecessors neglected to attend to when the matter was properly before them. This General Assembly divided the state into the same number of districts as before for the election of the same number of senators, for which the officially declared ratio was 17,200. Seventeen counties lying in districts that would be represented in the next General Assembly by senators already chosen, were made into two new districts. Apparently as a step towards equalizing the number of senators in the two classes, the act of the Tenth General Assembly making the apportionment had section 47 reading as follows:

"Nothing in this act shall effect the senators now elected although the numbers of those districts under present laws may be the same as provided for in this act: Provided, That the senators

to be elected at the October election, in the year 1865, in districts 40 and 45 shall hold their terms of office for the term of four years." The districts thus cited are those just then created.

Then the Eleventh General Assembly met. There would seem to be twenty-seven senators there whose terms would terminate the following year, with twenty-one holding for four years. But a ruling of the Senate of the Eleventh increased the larger number to twenty-eight. This is how that happened. During the war of 1861-5, there were many seats of members of the General Assembly made vacant by reason of their occupants entering the Union armies. Among these patriots was Warren S. Dungan, of the county of Lucas, who, having recruited a company for the Thirty-fourth Iowa Volunteers, was made lieutenant-colonel of that regiment, which, of course, vacated his seat in the Senate. The apportionment act of 1862 happened to separate Lucas County from that of Monroe, with which it had always been connected in the election of senator, and put it in the Fifth District. The district that had elected Mr. Dungan was known as the Twelfth. When announcing the existence of a vacancy in the Senate that was to be filled in 1863, Governor Kirkwood stated, in his election proclamation, that the vacancy existed in the representation from the Fifth District, the county of Wapello having been made the Twelfth District, and, as Lucas was Col. Dungan's home and the person to be chosen was to be from the home of the latter, but the person elected to the Senate in his place was Ziba Brown of Clarke County. Mr. Brown, having entered the government service, also vacated his seat. Governor Stone announcing that that vacancy was to be filled in the Senate also named the Fifth District as the one for which the senator was to be elected. At the election in 1864, Eugene E. Edwards of Lucas County was chosen. In 1865, one C. R. Johnson was elected senator from the Fifth District for the term of four years from the expiration of the original term for which Dungan was chosen. When the Senate met in 1866 both Messrs. Edwards and Johnson appeared as senators from this district, the former as filling a vacancy for which, it was claimed, Ziba Brown was chosen from a new district and not to fill a vacancy caused by Col. Dungan's

resignation. The rearrangement of the counties of the district by the apportionment act of 1862, which took effect immediately and before Col. Dungan's resignation, may be said to have caused the question to arise. The contested seat was referred to a selected committee consisting of Senators Marshman of Hartford, Hollman of Fort Madison, Stubbs of Fairfield, Leake of Davenport and Sampson of Sigourney. This committee, one week after its appointment, reported that in its opinion Mr. Johnson was duly elected senator from the Fifth District, as a successor to Colonel Dungan from the time at which the senator's original term expired, January, 1866. This recommendation, notwithstanding it was the unanimous report of the committee, among whose members were some of the ablest lawyers in the Senate, was overruled by the Senate by 24 to 15, and Mr. Edwards was duly acknowledged as the senator from the Fifth District, to fill a vacancy caused by Ziba Brown entering the service of the United States, thus increasing the number of senators in the larger class to twenty-eight, rendering partly nugatory the action of the Tenth General Assembly in the creation of two new districts and the enlargement of the smaller class to twenty-one.

The Eleventh General Assembly made 18,000 or fraction thereof equal to one-half in each senatorial district "the ratio of apportionment," dividing the state into forty-six districts for the election of forty-nine senators. The number of white persons in the state was shown by the census of 1865 to be 752,879, which gave a ratio of 15,365 for a senator. A new district was made of the counties of Boone, Hamilton, Story and Greene, all of which were in districts whose representatives were already in the larger class, thus making the number thereof twenty-nine, as at present.

The Twelfth General Assembly constituted 22,500 the ratio of apportionment, dividing the state into forty-eight districts for the election of fifty senators, thus reaching the constitutional limit in respect to the number of senators. The county of Lee lost its second senator, which it had from the earliest days of the state. New districts were formed of the counties of Poweshiek and Tama, and of the counties of Bremer, Butler and Grundy. This addi-

tion, allowing for the dropping of one from Lee County, made the number in the smaller class twenty-one, as it is today.²

The Thirteenth General Assembly was the first to base representation on the entire population of the state, the apportionments, before the constitution was amended in 1868, being based on the total white population. The change in the basis was not of much moment because the colored population of the state amounted to less than half of one per centum of the entire number of the people (and even now it is less than one per centum). According to the state census of 1869, showing 1,194,020 people in the state, the quotient of that number, divided by 50, is 23,880, the official ratio being declared to be 25,000 inhabitants. Dubuque, the most populous county in the state, lost its second senator, which it had held, either by itself or in combination with other counties, since the days of the territorial legislature. As the second senator from the county of Dubuque was one of the larger class, the making of a new district of the counties of Dallas, Audubon, Carroll and Greene kept the number in that class twenty-nine.

Chapter XCIV of the Private, Local and Temporary Laws of the Fourteenth General Assembly made 30,000 the ratio of apportionment. Scott County lost its second senator and Louisa was united with the district of Washington County, taking it out of the smaller class. The loss to the smaller class of this senator and the second from Scott, was made up by the establishment of Madison and Dallas and one constituted of Hamilton and Hardin.

The Fifteenth General Assembly, having no census on which it could establish a ratio for a senatorship, contented itself with dividing the state into seventy-three respective districts, for the

² The following table shows the changes in number of senators from the beginning of statehood to 1870, when fifty, the present number was reached, and also shows the division in the two classes:

General Assembly	Membership	Larger Class	Smaller Class
First (1846-7)	19	10	9
Fourth (1852-3)	31	16	15
Sixth (1856-7)	36	20	16
Eighth (1860-1)	43	27	16
Ninth (1862-3)	46	27	19
Eleventh (1866-7)	48	28	20
Twelfth (1868-9)	49	29	20
Thirteenth (1870-1)	50	29	21

—Editor.

election of one hundred representatives, declaring the ratio therefor of 12,500 people for a representative. The population of the state, being shown by the census of 1873 to be 1,251,342, this ratio, it will be seen, was about the correct one, quite unlike, in that respect, the ratios arbitrarily advanced in the various senatorial apportionments cited.

The Sixteenth General Assembly, that of 1876, divided the state into seventy-eight representative districts, fixing the ratio therefor 14,100; very near the quotient of the population of 1875, 1,350,544, divided by 100. The same General Assembly made the ratio for senators "Forty thousand inhabitants, or fraction thereof, in each senatorial district." The total population cited above, indicated a ratio of 27,011 for each such district. Under this apportionment, the county of Jones disappears as a senatorial district, being united with that of Cedar. To meet the loss of one from the smaller class, a new district was made of Webster, Greene, Carroll and Sac, the representative thereof going into the smaller class. The same General Assembly united the county of Van Buren with that of Davis, dropping the former from the smaller class and a new district was made of Fremont and Page whose representative went into that class.

The Nineteenth General Assembly enacted an apportionment bill making "46,000 inhabitants the ratio of apportionment," and declaring in its second session, "Each senatorial district shall be entitled to one senator, and every county and district, which shall have a number of inhabitants equal to one-half the ratio, shall be entitled to one senator." The population this was based on was 1,624,315. Jefferson County was united with Henry, and Iowa with Keokuk. The larger class being thus diminished through the loss of the members from Jefferson and Iowa, while new districts were made by uniting Warren with Madison, and Grundy with Hardin, the number was made twenty-nine as before.

The Twenty-first General Assembly introduced its apportionment bill with this section:

"The number of senators in the General Assembly is hereby fixed at fifty; and they are hereby apportioned among the sev-

eral counties according to the number of inhabitants in each, and under said apportionment the state is hereby divided into fifty senatorial districts, each district to have one senator." The apportionment made at that time, care having been taken to keep up the number in the two classes, continues to be the one under which senators are now chosen.

In the year 1904, the constitution was amended by fixing the number of senators at fifty, to be elected from the several senatorial districts established by law. It is directed that at the next session of the General Assembly held following the taking of the state and national census, they shall be apportioned among the several counties or districts of the state, according to the population shown by the last preceding census. The amendment of 1904 went on to provide for the apportionment of representatives. The ratio therefor is ascertained by dividing the population by the number of counties, "but each county shall constitute one representative district and be entitled to one representative, but each county having a population in excess of the ratio number, as herein provided of three-fifths or more of such ratio number shall be entitled to one additional representative, but said addition shall extend only to the nine counties having the greatest population."

The amendment thus adopted dropped the restriction against "floating districts" from the fundamental law.

Such districts were quite common in early western history. Indiana especially indulged in them. Districts would be formed of several counties, having among them some particular county strongly inclined to one of the political parties, which county would be attached to other counties in repeated districts, the great majority in the large county being counted on to carry such districts for the dominant party. The "floating" feature was in the fact that a representative could be floated into or out of one of the outlying counties.

While none were created under the constitution of 1857 directly, many were made of districts that had counties in them that were already represented in the Senate, thus being represented by persons for whom they voted at successive elections.

The extensive work of that kind done in 1864 has been cited and there were other instances. These were not made so much for partisan advantage as a step in the direction of getting half the Senate chosen every second year, the failure of the earlier senators to make the proper allotment into classes being a reminder of neglected duty.

The first departure from the constitutional law on the subject of allotment of senators was undoubtedly that of the Senate of the Sixth General Assembly which was doubtless excusable because the entire body of senators was uncertain whether any of them would be called upon to act as members of future general assemblies. The Seventh General Assembly could not well attend to the allotment because all the senators elected in 1856 were members of that assembly. Hence, it was the work of the Eighth General Assembly to make provision for the retirement of several of the members of that body at the election of 1861. Failing to do that, the only way to equalize the classes was to reduce the number of senators and create new districts, the elect whereof would go into the smaller class. But no reduction in the number of senators was ever favored, a motion to instruct the committee having the matter in charge to report a bill reducing the number of senatorial districts to thirty being promptly voted down.

The matter of the division of the senators into classes to be chosen at different times, does not appear to have been universally adopted. The first constitution of the state of New York divided that state into four districts for the election of senators, the number from each to be apportioned to the districts, in proportion to the number of freeholders in each, qualification to vote for senators being confined to persons having real property. The second constitution divided the state into eight circuits, each of which was a senatorial district, which elected four senators for four years, one to retire each year. That disappeared in 1846, when provision was made for the division of the state into thirty-two districts, each to choose one senator. Under the present constitution of that state the entire Senate of fifty members is elected in the even numbered year, while the Assembly (the designation of the more popular branch of the legislative body) is chosen an-

nually. The limitation of the franchise to freeholders disappeared from the state's second constitution, that of 1821. None of the New England states make any difference in the terms of the members of the two bodies, all of them, excepting Massachusetts, choosing its legislature every second year. That state elects its entire legislature every year. They all did that until some time towards the close of the last century when the present time of choosing legislators was adopted. The state of New Jersey has a Senate composed of one person from each of its twenty-one counties, one-third retiring each year, the Assembly being chosen every year. Ohio does not make any distinction in the terms of its senators. Most of the other states, it is believed, do make a classification of the members of the smaller body. The constitution of Minnesota provided for the election of an entire Senate when a new apportionment was made the senators likewise being divided into two classes.

When the state of North Dakota was being created, a strong effort was made to establish a single legislative body, but it failed, the conservative element being too strong for the adoption of such a novelty. Oddly enough, the first Senate in that state passed a bill offering a home for the famous Louisiana lottery which was just then being driven from its native state. George E. Spencer, who was secretary of the Iowa Senate of the Seventh General Assembly, who afterwards made something of a reputation in the field of arms, and subsequently represented Alabama in the Senate of the United States, is spoken of as the benevolent missionary that got the lottery such recognition in the new state, whose constitution did not forbid lotteries. But the less conservative House of Representatives voted down the lottery.

A leading opponent of the bicameral legislature in North Dakota was Martin N. Johnson, who represented the county of Winneshiek in Iowa in the Sixteenth General Assembly's House, and in the Senate during the administration of Governor Gear that immediately followed. Removing to the Dakotas, he became a leading man in the new state, making a strenuous effort to have the legislature like that of Norway, his ancestral home. He subsequently got his party's nomination for the United

States Senate, in which, however, he failed of election. But, later he was chosen to the United States Senate and he died a few years later a senator of the United States.

Speaking of the matter of bicameral legislatures, the writer hereof heard the late Judge Joseph M. Beck express his opinion that the next most serious matter that should have the attention of reforming agitators was the abolition of the Senate and when it was suggested, that as the United States Senate represented a distinct interest from that which the House of Representatives stood for, that the houses might meet together and enter fully into discussions, shaping bills as might be agreed upon, but the senators and representatives vote separately, the venerable jurist was relentlessly opposed to even the federal Senate being retained.

An incident has been related of an interview between the first president and his secretary of state, when the latter asked why there should be two legislative bodies, the president said, "You have just answered your own question." "How?" said the secretary. Said the president, "To cool it off," pointing to the fact that Jefferson had just poured coffee from cup to saucer. That is about as good a reason as can be assigned for requiring action from two legislative bodies when they do not represent diverse and perhaps conflicting interests.

We have watched those fellows who are the early risers, and as a general thing they are the chaps who go to the groceries of a morning. It is all moonshine about the smartest and greatest men being early risers. It might have been so in the old times, but nowadays when you see a chap moving about very early, you may be certain he is after a drink.—*Tri-Weekly Iowa State Journal*, Des Moines, March 3, 1858. (In the newspaper collection of the Historical Department of Iowa.)

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